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U.S. Citizenship and Immigration Services

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[redacted]

MAR 23 2004

FILE: [redacted] Office: PHILADELPHIA, PA Date:

IN RE: Applicant [redacted]

APPLICATION: Application for Certificate of Citizenship under Section 320 of the Immigration and Nationality Act, 8 U.S.C. § 1431.

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Philadelphia, Pennsylvania, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record indicates that the applicant was born in Chittagong, Bangladesh on November 8, 1989.[1] The applicant's father, was born in Chittagong, Bangladesh on February 12, 1953. He became a naturalized United States (U.S.) citizen on September 30, 1994. The applicant's mother was born in Chittagong, Bangladesh and is not a U.S. citizen. The record reflects that the applicant's parents married in Bangladesh on January 7, 1973. The applicant was admitted into the United States as a lawful permanent resident on January 31, 1995. She seeks a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The district director concluded that the applicant was ineligible for acquisition of U.S. citizenship pursuant to section 320 of the Act, because she did not reside in the United States in the physical custody of her father.

On appeal, the applicant's father (Mr asserts that he works during the week in New York City, and lives with the applicant in Pennsylvania on weekends and during holidays. In support of this assertion, the applicant submits 1998 and 2002 bank statements containing Mr. name and Lansdowne, Pennsylvania address.

Section 320(a) of the Act states that:

> (a) A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:
>
> (1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.
> (2) The child is under the age of eighteen years.
> (3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

The record reflects that the applicant is under 18 years old and that her father has been a naturalized U.S. citizen since 1994. The record additionally reflects that the applicant entered the U.S. as a lawful permanent resident on January 31, 1995. Moreover, the record establishes that Mr has legal custody over the

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[1] The AAO notes that the record contains two extracts of birth for the applicant. The original extract of birth submitted for the applicant's immigrant visa petition and dated August 20, 1990, states that the applicant was born on September 17, 1988, and that the birth was registered on August 19, 1990. The second extract of birth, issued July 1, 1998, states that the applicant was born on August 11, 1989, and that the birth was registered on May 1, 1998. The record reflects that a Form I-90, Application to Replace Alien Registration Card, filed on December 28, 1998, requests that the applicant's birth date be changed due to an INS error regarding the applicant's birth date information. The application was approved, without comment, on April 3, 2000. The AAO additionally notes that the birth dates of two of the applicant's siblings were similarly changed: pursuant to a form I-90 filed on December 28, 1998, and approved on December 30, 1999; pursuant to a form I-90 filed on December 28, 1998, and approved on December 30, 1999. The AAO notes that the conflicting birth date information does not affect the applicant's eligibility requirements under section 320 of the Act because the applicant is under the age of eighteen according to the birth dates contained on either birth certificate. The conflicting birth date information is therefore not relevant to the present appeal and will not be further addressed by the AAO.

applicant. The AAO finds, however, that the evidence in the record fails to establish that the applicant is in the physical custody of her father, as required by section 320 of the Act.

The AAO notes that the Form N-600, Application for Certificate of Citizenship (Form, N-600) filed by the applicant states that the applicant resides at: , and that the applicant's father resides at The AAO additionally notes that the record contains a copy of Mr. 2001 federal tax return stating that his home address is: In addition, the record contains several copies of Mr. 2002, utility bills reflecting that his residence is at The AAO notes that the 2002 bank statements submitted by the applicant indicate that Mr. has an account at a Pennsylvania based bank. In addition, the 1998 mortgage interest statement submitted by the applicant reflects that Mr. and another individual named have a loan for the home in Lansdowne, Pennsylvania, where the applicant lives.

The AAO finds that neither the bank statements nor the existence of a loan for the home in Lansdowne, Pennsylvania, establishes that Mr. actually resides with the applicant in Lansdowne, Pennsylvania. The AAO finds further that the information contained on the Form N-600 application, as well as the residence information contained in the federal tax documentation and utility bill evidence submitted by the applicant, clearly reflect that Mr. resides in New York. Based on the above evidence, the applicant has failed to establish that she resides in the physical custody of her father. The applicant has therefore failed to establish that she qualifies for citizenship under section 320 of the Act. The appeal will be dismissed accordingly.

ORDER: The appeal is dismissed.